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<b>Amy Pelletier</b> _____	/Amy Pelletier/ _____	7/1/2010 _____
Type or print name	Signature	Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Voellmicke Confirmation No. 2220  
 Serial No. : 10/673,826 Art Unit: 3775  
 Filed : 9/29/2003 Examiner: Ramana, Anuradha  
 For : Vertebroplasty Device Having A Flexible Plunger

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

**Disclosure Letter**  
**Patent Term Adjustment Determination**  
**37 CFR 1.705**

Sir,

In response to the Patent Term Adjustment outlined in the Notice of Allowance dated April 6, 2010, Applicant disagrees with the USPTO's PTA calculation of 75 days. In compliance with the practitioner's duty of candor and good faith in practice before the Office, applicant wishes to disclose that the PTA of 75 days calculated by the USPTO may be longer than appropriate.

It appears that the USPTO did not account for the Applicant's delay in filing a response to the office action mailed October 6, 2008, which led to abandonment of the application. It is the Applicant's belief that the USPTO should have deducted 262 days of patent term adjustment.

It is also Applicant's belief that 28 days of patent term were deducted erroneously by the USPTO for the time period of March 11, 2005 to April 8, 2005. There is an entry on the Patent Term Adjustment tab in PAIR on March 11, 2005 for a response to a restriction requirement and

an entry for a notice of non-compliant response that was mailed on the same date. The notice of non-compliant response was then withdrawn by the USPTO. These documents are not included in the File Wrapper for this application and it is Applicant's belief that a notice of non-compliant response was never mailed to the Applicant. The response that was filed on April 8, 2005 was compliant and was timely filed so the patent term adjustment should not have been reduced by 28 days.

Finally, Applicant should have received 83 day of Patent Term Adjustment to account for the time period of September 29, 2006 – December 22, 2006. September 29, 2006 is three years from the filing date of the application. Since the RCE was not filed within the first three years, the Applicant should be credited for this time period up until the filing of the RCE.

Since the 262 days of delay outnumber the 111 days that should have been credited to the applicant, it is the Applicant's belief that the Patent Term Adjustment for this application is 0 days.

The present application is not subject to a Terminal Disclaimer.

Although the Applicant generally agrees with the Office's PTA calculation, Applicant respectfully requests that the Office review the PTA calculation for this application, and if necessary, adjust the term as appropriate.

Respectfully submitted,

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Dated: July 1, 2010

By: /Thomas M. DiMauro/  
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